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**Commerce & Labor Committee**

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**HB 1395**

**Brief Description:** Modifying provisions concerning the uniform regulation of business and professions.

**Sponsors:** Representatives Wood, Conway and Condotta; by request of Department of Licensing.

**Brief Summary of Bill**

- Making technical changes and other language clarifications to the regulation of business and professions programs administered by the Department of Licensing (Department), and to the uniform disciplinary procedures for business and professions regulated by the Department.

**Hearing Date:** 2/7/05

**Staff:** Rebekah Ward (786-7106).

**Background:**

The Department of Licensing (Department) regulates businesses and professions. Each business and profession has a separate set of laws regarding disciplinary actions, investigating violations of the law, and imposing sanctions for violations. Each business and profession is under either the disciplinary authority of the Director of the Department or a board or a commission charged with regulating the particular profession.

The Uniform Regulation of Business and Professions Act (URBPA) was passed in 2002, consolidating disciplinary procedures for the licensed businesses and professions regulated by the Department. In some cases, the enactment of the URBPA resulted in inconsistencies with the various business and professions statutes.

**Summary of Bill:**

Several language clarifications and technical changes are made in the URBPA and in various professional licensing statutes.

Unprofessional Conduct

*Certified Real Estate Appraisers:* Negligence, incompetence, or failure or refusal without good cause to exercise reasonable care in developing appraisals and other related documents is deemed to be unprofessional conduct.

*Funeral Directors:* It is unlawful, rather than a violation of a specific statute, to represent oneself as a funeral director or embalmer or practice without a license. There is no longer a requirement that at least one funeral director supervise and direct the business of a funeral establishment.

*URPBA:* Misrepresentations in renewing a license, as well as in obtaining or reinstating it, and engaging in unlicensed practice are instances of unprofessional conduct. Incompetence, negligence, or malpractice which causes damage to another, rather than a consumer, is unprofessional conduct.

A certified copy of a final holding of a court with competent jurisdiction is conclusive evidence of the applicant's conduct.

#### Director's or Disciplinary Board's Authority

*Bail Bond Agents:* The Director's designee, as well as the Director, is given the authority to order restitution or issue an assurance of discontinuance.

*Collection Agencies:* The Collection Agency Board, not the Director may adopt rules and enforce the Board's duties under this program.

*Geologists:* The Director no longer has the authority to enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. Additionally, it is no longer prohibited practice for a failure to comply with an assurance of discontinuance entered into with the Director.

Hearings are held before the Geology Board, not the Director or the Director's designee.

*Private Investigators and Security Guards:* The Director's designee, as well as the Director, is given the authority to administer these programs.

*Bail Bond Recovery Agents:* The Director's authority is extended to cover bail bond recovery agents.

#### URBPA Revisions

*Definitions:* "Unlicensed practice" is defined to include representations made to a person, rather than a consumer.

*License Denial:* Disciplinary authority is created to issue a statement of intent to deny a license where there is an investigation and a reason to believe the minimum qualifications for licensure have not been met. In addition, the license holder or applicant may file a request for a hearing to contest the intent to deny a license. The time limits for holding a hearing on a violation apply to requests for a hearing on the intent to deny a license.

The disciplinary authority's order revoking a license must be for a specific period of time, rather than indefinitely.

*Cease and Desist Orders:* A disciplinary authority may issue a notice of intent to issue a cease and desist order to any person the disciplinary authority believes has engaged in or is about to engage in unprofessional conduct. Among other things, the notice must include a description of unlawful practices or activities. Temporary orders to cease and desist may be ordered if the

disciplinary authority makes a written finding of fact showing irreparable harm to the public if there is a delay in issuing such an order.

Application of URBPA

In addition to applying to conduct occurring on or after January 1, 2003, the URBPA is applicable to applications for licensure made on or after January 1, 2003.

**Rules Authority:** The bill contains provisions changing the rule-making powers of the Department regarding collection agencies by giving the Board rather than the Director rule-making authority.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.